

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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CATHARINE S.,

Plaintiff,

DECISION AND ORDER

20-CV-1776L

v.

KILOLO KIJAKAZI,  
Acting Commissioner of Social Security,

Defendant.

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Pending before the Court is a motion by counsel for plaintiff, a prevailing party in this action for Social Security benefits, to resettle or amend the Court's Decision and Order granting attorney's fees pursuant to 42 U.S.C. §406(b). (Dkt. #29). Specifically, in light of the practical reality that Section 406(b) fees are often not remitted to counsel for several months, counsel requests that the concluding language of the Decision and Order be amended to direct that EAJA fees already received by counsel be refunded after counsel has received his Section 406(b) fees, rather than "now."

Upon review of plaintiff's submissions, the Court concludes that such an amendment is appropriate.


The Court therefore grants counsel's motion (Dkt. #30) and amends its Decision and Order of September 15, 2023 (Dkt. #29), by replacing the conclusion with the following language:

For the foregoing reasons, plaintiff's motion for attorney's fees pursuant to 42 U.S.C. §406(b) (Dkt. #26) in the amount of \$23,760.25 is granted. The award is to be made payable to

William C. Bernhardt Law Offices, PLLC, attorneys for plaintiff, *and is to be paid in full on or before December 24, 2023.*

If counsel has not already refunded the amount of previously-awarded EAJA fees to the plaintiff pursuant to 28 U.S.C. §2412, counsel is directed to do so *within seven (7) days after receipt of the full amount of attorney's fees awarded pursuant to Section 406(b) herein.*

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
September 26, 2023.